

1 BILL NO. G-93-03-11

2 GENERAL ORDINANCE NO. G-14-93

3 AN ORDINANCE amending Chapter 155 of the
4 Municipal Code of the City of Fort Wayne, Indiana.

5
6 WHEREAS, Chapter 155 of the Municipal Code of the City of
7 Fort Wayne, Indiana is in need of amendment and,

8 WHEREAS, a proposed amendment as herein set out has been
9 made.

10 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
11 THE CITY OF FORT WAYNE, INDIANA:

12 SECTION 1. That Chapter 155 be deleted in its entirety
13 and replaced with the following:

14 **§155.0100 Title and Purpose**

15 A) The ordinance codified in this Chapter shall be known
16 and cited as the City of Fort Wayne Subdivision Control
Ordinance.

17 B) The purpose of this ordinance is to provide for land
18 divisions under the Comprehensive Plan, and to provide
19 minimum rules, regulations, and standards in order to
20 achieve orderly development in the city through land
21 subdivision; to provide for the proper arrangement of
22 streets in relation to other existing or proposed
streets; to promote the utilization of land to assure the
best possible environment; to promote the health, safety,
and general welfare of the public, and the provision of
sufficient capital improvements to maintain community
standards while meeting the standards and specifications
of the City of Fort Wayne.

23 **§155.0110 Administration and Authority**

24 The Fort Wayne City Plan Commission is established by
25 Indiana Code as the administrative authority for the
26 subdivision of land within the jurisdictional limits of
the City of Fort Wayne.

27 **§155.0120 Interpretation**

28 In interpretation and application, the provisions of this
29 ordinance shall be held to be the minimum requirements
30 for the promotion of the health, safety, comfort,
prosperity, and general welfare of the citizens of the
city.

31 **§155.0130 Effect of Judgments**

32 If any part or provision of this ordinance or application
thereof to any person or circumstances is adjudged

1 invalid by any court of competent jurisdiction, such
2 judgement shall be confined in its operation to the part,
3 provision, or application directly involved in all
4 controversy in which said judgement shall have been
5 rendered and shall not affect or impair the validity of
6 the remainder of these regulations or the application
7 thereof to other persons or circumstances. The Plan
8 Commission hereby declares that it would have enacted the
9 remainder of these regulations even without any such
10 part, provision or application.

11 **§155.0140 Jurisdiction and Compliance Required**

12 **A)** This ordinance shall apply to all land within the
13 jurisdictional limits of the Plan Commission as now or
14 hereafter established, with the following exceptions:

15 1) All lots in a recorded subdivision at the time
16 of adoption of this ordinance shall not be required
17 to meet the regulations of this ordinance.

18 2) All subdivision plats holding a valid primary
19 approval from the Plan Commission shall be
20 processed under the terms of the previous
21 Subdivision Control Ordinance providing that all
22 lands contained within the primary plat must
23 receive secondary approval within two years from
24 the date of primary approval, and the secondary
25 plat must be recorded within one year from
26 secondary approval.

27 3) All divisions of land not defined as subdivision
28 under the provisions of this ordinance must be
29 submitted for administrative approval.

30 **B)** No subdivision of land, as defined in this ordinance,
31 may occur until such time as all the provisions of this
32 ordinance are complied with, the Fort Wayne City Plan
Commission has acknowledged its approval and release by
affixing its signatures and seal, and the sealed plat is
recorded in the Office of the Allen County Recorder.

33 **C)** No lot in a subdivision may be sold, nor shall a
34 permit to erect, alter, or repair any building upon land
35 in a subdivision be issued, unless and until a
36 subdivision has been approved and recorded, and until the
37 improvements required by the City in connection therewith
38 have either been constructed or guaranteed as provided in
39 this ordinance.

40 **§155.0150 Administrative Approval**

41 **A)** A division of land which does not constitute a
42 subdivision as defined in this ordinance must be
43 submitted for administrative approval. Submittal shall
44 include, but shall not be limited to, the following:

45 1) a drawing showing all land, lots or parcels
46 affected by the land split, certified by a land
47 surveyor licensed in the State of Indiana;

1 a) the submitted drawing must also indicate
2 the location of public water and public sewer
3 mains, as well as public right-of-ways that
4 will be used for development.

5 b) the drawing must contain a signature block
6 for approval.

7 2) a certified copy of all land transactions
8 affecting the parcel within the previous twelve
9 month period;

10 3) The applicable filing fee.

11 B) The submittal shall be reviewed for compliance with
12 the requirements of the Zoning Ordinance as to minimum
13 standards. In addition, each affected lot must be
14 served by public water and public sewer and must have
15 immediate access to an improved public right-of-way.

16 C) Applications shall be approved providing that all
17 affected parcels meet or exceed these minimum
18 standards.

19 D) All approved applications shall be signed by a staff
20 person responsible for review. The approved
21 application will be returned to the applicant, and must
22 be recorded, by the applicant, within one year of
23 approval or the approval will be null and void.

24 §155.0160 Enforcement

25 It shall be the duty and responsibility of the City of
26 Fort Wayne through its Department of Community and
27 Economic Development or successor agency and/or other
28 applicable agencies to enforce the provisions of this
29 ordinance and any and all other provisions of this
30 ordinance as provided for under the laws of the State
31 of Indiana.

32 §155.0170 Violation; Injunctive Procedure

Any violation of this ordinance shall hereby be declared
a nuisance, and shall be unlawful. The Fort Wayne City
Plan Commission by its enforcement staff may institute a
suit for injunction in the Circuit or Superior Court of
Allen County to restrain any individual or corporate
entity from violating any provision of this ordinance,
and to cause such violation to be prevented, abated,
removed, or restored. Such action may also be instituted
by any property owner who may be especially damaged by
violations of any provisions of this ordinance. The
remedies provided for by this section and any other
provisions of law shall be cumulative and not exclusive
and shall be in addition to any other remedies provided
by law.

§155.0180 Zoning Districts for Subdivision

Land designated as or contained within a POD
(Professional Office District), B-2, or MHP (Mobile Home

1 Park) zoning classification, or other land zoned and
2 developed under the provisions of the Planned Development
3 designations of the Fort Wayne Zoning Ordinance shall be
4 exempt from this ordinance.

5 **§155.0190 Consultation Encouraged**

6 Prior to submission of a subdivision plat, the subdivider
7 is encouraged to meet informally with staff. The purpose
8 of this informal meeting is to discuss any concerns
9 regarding the parcel of ground, or the ordinance
10 requirements. This informal meeting should assist in
11 establishing a channel of communications which should
12 help expedite future submissions and revisions.

13 **§155.0200 Plat Committee**

14 Under the authority granted by state law, the Fort Wayne
15 City Plan Commission hereby establishes a Plat Committee,
16 empowered to act on its behalf on such matters as may be
17 assigned to it.

18 **§155.0300 Definitions:**

19 **ALLEY** means a right-of-way not designed for general
20 travel or to allow through vehicular traffic, used as an
21 access to the rear or side of lots.

22 **APPROPRIATE AGENCIES** means those agencies designated by
23 ordinance or staff to review subdivisions for compliance
24 with applicable specification or standards, requirements,
25 or other infrastructure needs.

26 **BOARD** means the Board of Public Works.

27 **BOND** means any form of security, including cash, surety
28 bond, or financial instrument of credit, as approved by
29 the appropriate agency, for the purpose of guaranteeing
30 that improvements will be made in a subdivision according
31 to the standards as adopted by the Board.

32 **BUILDING SETBACK LINES** means lines which are
substantially parallel to the lot lines and which define
the minimum distances that buildings must be located from
the lot lines. (See required yards in the Zoning
Ordinance.)

CITY means the City of Fort Wayne, Indiana.

COMMISSION means the Fort Wayne City Plan Commission.

COMPREHENSIVE PLAN is a plan for the physical development
of the community, prepared and adopted by the Plan
Commission, and Common Council, pursuant to state law,
and including any part of such plan separately adopted,
or any amendment to the plan or parts thereof. This
shall also include any other documents incorporated by
reference.

CONDITIONS means any terms of approval placed upon the
plat application by the Plan Commission, or the Plat

Committee, and upon the advice of any reviewing department.

COUNTY means Allen County, Indiana.

CUL-DE-SAC means a local street open at one end only and having an appropriate turning area at the closed end.

DEVELOPMENT PLAN COMMITTEE means a committee composed of representatives of all departments or agencies having jurisdiction over required items or improvements under this ordinance.

DEVELOPER means the owner of land proposed to be subdivided, or his representative.

DOUBLE FRONTAGE LOT means a lot having frontage on two separate parallel or approximately parallel dedicated streets. (Also known as a "through lot".)

EASEMENT means a grant by a property owner to the general public and/or public utility or utilities (or quasi-public utilities) for the use of land for a specifically stated purpose or purposes.

FEE means the appropriate filing fee as may be established by the Plan Commission.

FLOODPLAIN means that area adjoining a waterway which has been designated as FLOODWAY or FLOODWAY FRINGE, as specified in the Zoning Ordinance.

INFRASTRUCTURE means the fixed public works and facilities necessary in a community, such as, but not limited to; sewers, water systems, streets, sidewalks, street lights, fire hydrants, street name signs, and traffic control signs or devices constructed to specifications adopted by the City of Fort Wayne through its Board of Public Works.

INTERESTED PARTIES means:

A) For a Major Subdivision:

- 1) Those property owners within three hundred (300) feet of the proposed subdivision; and,
- 2) Staff of the Plan Commission, or successor agency; and,
- 3) The subdivider; and,
- 4) The registered neighborhood association for the subject property.

B) For a Minor Subdivision:

- 1) contiguous property owners;
- 2) Staff of the Plan Commission, or successor agency; and,

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3) The subdivider.

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JURISDICTION means the area within and/or adjacent to the corporate limits of the City of Fort Wayne, as shown on a map on file in the Office of Community and Economic Development, or successor agency, over which the Fort Wayne City Plan Commission has authority.

LAND SURVEYOR means a surveyor who is licensed in compliance with the laws of the State of Indiana.

LOT for the purposes of this ordinance, means a parcel or portion of land containing at least the area required, at the time it was created, by the zoning district in which it is or was located, abutting at least one dedicated street or roadway, separated from other parcels or portions of land by description as on a subdivision of record or survey map for purposes of sales, leases, or separate use. The word "lot" shall include the words "parcel" and "tract".

LOT FRONT for the purposes of this ordinance, means that part of a lot adjacent to and parallel with a dedicated street. The front of a corner lot shall be considered as that part of the lot having the lesser amount of lineal footage adjacent to and parallel with either one of the streets. Whenever the lineal footage is the same on both such streets, either frontage of the corner lot may be considered as the lot front.

MONUMENT means a permanent marker, used to identify the boundary lines of any lot, parcel, tract, street lines, or survey control points.

NONACCESS EASEMENT means a public easement along a public right-of-way across which no access to another property is permitted.

OWNER means any person or other legal entity having record title.

PARK SERVICE JURISDICTION means an area of public park development as defined by the Enabling Act, and under the developmental control of the Fort Wayne Department of Parks and Recreation.

PLAN COMMISSION means the Fort Wayne City Plan Commission.

PLAT means the drawing on which the plan of subdivision is presented to the Plan Commission (or Plat Committee) for approval.

PLAT COMMITTEE means a group of officials appointed by the Plan Commission to hold hearings on and dispose of subdivision applications on behalf of the Commission. The Plat Committee shall consist of at least one planning staff member, one representative of an engineering department employed by the City, and one Plan Commission member. Each appointment shall be for one year, with members serving until replaced by any new appointment.

1 **PRIMARY APPROVAL** means approval, or approval with
2 conditions, granted to a subdivision application by the
3 Plan Commission, or the Plat Committee acting on its
4 behalf, when the subdivision complies, or can comply
5 after modification, with this ordinance.

6 **PUBLIC SEWER FACILITY** means a sewage disposal system,
7 (including storm water), which is maintained, and
8 operated within the jurisdiction of the City, and meeting
9 all applicable standards and specifications.

10 **PUBLIC UTILITY** means a firm, corporation, municipal
11 department or board duly authorized to furnish, or
12 furnishing under regulation to the public, electricity,
13 gas, steam, communication, transportation, drainage,
14 sewer and/or water.

15 **PUBLIC WATER FACILITY** means a water supply system which
16 is constructed, maintained, and operated within the
17 jurisdiction of the City, and meeting all applicable
18 standards and specifications.

19 **RECORDER** means the Recorder of Allen County, Indiana.

20 **PROFESSIONAL ENGINEER** means an engineer who is licensed
21 in compliance with the laws of the State of Indiana.

22 **RIGHT-OF-WAY** means a dedicated strip of land which may be
23 occupied or may be intended to be occupied by
24 transportation facilities, public utilities, or other
25 special public uses.

26 **SECONDARY APPROVAL** means approval granted to a
27 subdivision application, certifying that the plat
28 reflects all terms, conditions, and commitments required
29 by the Plan Commission, or the Plat Committee acting in
30 its behalf.

31 **STAFF** means the staff of the Fort Wayne City Plan
32 Commission.

STANDARDS means the most current, specific and detailed
listing of materials and construction methods for
infrastructure improvements, standards of construction
and design, and performance bond schedules as adopted by
the Board of Public Works, and/or the Board of Park
Commissioners.

STREET means a dedicated public right-of-way primarily
for purposes of vehicular travel, including the pavement,
median, curb, and/or shoulder.

A) Arterial street shall refer to either of the
following types of arterial streets.

 1) A Principal Arterial, which is a roadway
that provides high volume, high speed travel
between major points or serves the major
centers of activity. A Principal Arterial can
also provide continuity for a rural arterial
that intercepts urban boundaries. A Principal

1 Arterial carries most of the trips entering
2 and leaving the urban area as well as most
3 through movements and intra-area travel. The
4 system serves primarily through traffic and
5 provides access to abutting properties as a
6 secondary function.

7 2) A Minor Arterial is a roadway system that
8 interconnects with and augments the principal
9 arterial system. The system carries trips to
10 geographic areas smaller than that identified
11 with high classifications. All arterials not
12 classified as principal shall be classified as
13 minor arterials.

14 B) **Collector street** means a roadway system that
15 provides both traffic circulation and land access
16 service. System penetrates residential, commercial
17 and industrial zones distributing trips from
18 arterials through the area to local routes or final
19 destinations. The system also links neighborhoods
20 or areas of homogeneous land use with arterials.

21 C) **Local street** means roadways that include all
22 facilities not in the higher classification; they
23 provide direct access to abutting lands (farm,
24 residence, business). Through traffic movement is
25 usually deliberately discouraged. Overriding
26 consideration is to foster a safe and pleasant
27 environment. The convenience of the motorist is a
28 secondary consideration.

29 **STRUCTURE** means anything constructed or erected which
30 requires location on or in the ground, or attachments to
31 something having a location on or in the ground.

32 **SUBDIVIDER** means the owner or the authorized agent for
the owner of a subdivision.

SUBDIVISION means:

A) any land, vacant or improved, which is divided
into three or more lots in a twelve (12) month
period; or

B) the act of creating a subdivision by the
division of land into three or more lots in a
twelve (12) month period, except

1) the sale of land as a result of legal
condemnations as defined and allowed by state
statutes;

2) the acquisition of street right-of-way by a
public agency;

3) a land transaction with an adjoining
property owner, when the transaction is
clearly not for individual development, for
example, an adjustment of lot lines, and both
new parcels meet the minimum requirements of

1 the Zoning Ordinance.

2 C) For the purposes of this definition, a division
3 shall be deemed to occur at the time that a
4 contract of sale, conditional or otherwise, is
5 executed, or a deed is executed, whichever is
6 earliest.

7 D) Subdivisions shall include:

8 1) a **Minor Subdivision** means all subdivisions
9 of land fronting on, and having access to an
10 existing improved non-arterial street, and not
11 requiring the creation of new right-of-way, or
12 the creation or extension of any city water or
13 sewer facility, and which does not exceed a
14 total of six (6) lots inclusive of the
15 original tract. An increase in right-of-way
16 width shall not constitute the creation of new
17 right-of-way.

18 2) **Major Subdivision** means all subdivisions
19 requiring new right-of-way or the creation of
20 any public improvement, or which front on an
21 arterial street, and/or which does not qualify
22 as a Minor Subdivision.

23 **ZONING DISTRICT** means the classification of the property
24 under the Zoning Ordinance.

25 **ZONING ORDINANCE** refers to the Zoning Ordinance of the
26 Municipal Code of the City of Fort Wayne, including any
27 and all amendments thereto.

28 **SUBDIVISION DESIGN REQUIREMENTS**

29 **§155.0400 General**

30 A) Subdivision names shall not duplicate or phonetically
31 duplicate any names of existing subdivisions within Allen
32 County.

33 B) No new street shall be named so as to duplicate or so
34 nearly duplicate so as to be confused with another
35 existing street in the incorporated and unincorporated
36 areas of Allen County, unless such new street is to be an
37 extension of an existing street.

38 C) Subdivision must not adversely impact the remainder of
39 the parcel or adjacent properties, and may not be in
40 conflict with any provision of the Zoning Ordinance.

41 D) Restrictive covenants, when used, shall remain a
42 private contract and shall not be enforced by the Plan
43 Commission or Plat Committee. Restrictive covenants,
44 when used, shall not exempt any lot from meeting the
45 minimum requirements of the Zoning Ordinance. However,
46 covenants may be created requiring greater minimums than
47 specified by ordinance, and shall be enforceable by the
48 covered parties.

1 **§155.0410 Right of Way and Street Alignment**

2 **A)** The arrangement, character, extent, width, grade, and
3 location of all streets shall be coordinated with
4 existing and planned streets, existing topography, public
5 convenience and safety, and in their appropriate relation
6 to the proposed uses of the land to be served by such
7 streets. Alleys shall be discouraged except where
8 necessary. The general location of trees that are to be
9 saved should be noted and considered in the original lay
10 out of proposed streets.

11 **B)** Where a subdivision borders on or contains a railroad
12 right-of-way, limited access highway right-of-way, or
13 arterial street right-of-way, the Commission may require
14 a street approximately parallel to and on each side of
15 such right-of-way at a distance suitable for the
16 appropriate use of the intervening land. Such distances
17 shall be determined with due regard for the requirements
18 of approved grades and future grade separation. The
19 Commission may also require that control of the
20 intervening land strips be placed in the City under
21 conditions approved by the Commission.

22 **C)** Cul-de-sac and dead end streets, designed to be so
23 permanently, shall generally not be longer than 750 feet.
24 All dead end or cul-de-sac streets shall terminate in a
25 manner meeting the standards and specifications of the
26 City of Fort Wayne. Measurements shall be taken from the
27 edge of intersecting right-of-way to the end of the cul-
28 de-sac or terminus right-of-way.

29 **D)** Local streets shall be laid out so as to discourage
30 through and high-speed traffic and shall conform to the
31 latest standards adopted by the Board.

32 **E)** Stub streets shall be treated in the following manner,
when, required by either Street Engineering and/or
Community & Economic Development, or successor agencies:

 1) Stub streets within the proposed subdivision
 connecting to adjacent areas shall be dedicated and
 improved to the applicable design standards;

 2) All existing stub streets in abutting areas
 shall be continued into the proposed street system;

 3) Existing stub streets in abutting areas which
 are to be continued and are unimproved, shall be
 improved by the subdivider of the proposed
 subdivision.

F) No more than two streets shall intersect at any one
point.

G) All streets shall be dedicated and improved to city
standards as regarding width, construction materials, and
inspection provisions.

1 **§155.0420 Lot Design**

2 **A)** Minimum lot width and area requirements shall conform
3 to the requirements of the zoning district or districts
4 in which the property is located. Lot width shall be
 measured between side lot lines at the required setback
 from the lot front.

5 **B)** Every lot shall front upon and have at least the
6 minimum required frontage on a dedicated public street of
7 sufficient width and improvement as per city standards
 and specifications.

8 **C)** The residential lot arrangement of a subdivision shall
9 be accomplished in such a manner that there will be no
10 double frontages. However, in circumstances where the
11 subdivision abuts an arterial street, double frontage
12 lots may be approved when access from the lot is only to
 the interior, local street. Where double frontage lots
 are allowed, the subdivider, the subdivider's successors
 and assigns shall relinquish the right of access from the
 lot to the arterial street and place restrictions upon
 the land to run with the land relinquishing said access.

13 **D)** Lots shall be numbered consecutively throughout the
14 entire subdivision.

15 **E)** At street intersections the property or right-of-way
16 lines of corner lots shall be rounded at the street
17 intersection corner with an arc which shall have a
 minimum radius as per standards and specifications of the
 Board of Public Works.

18 **F)** All lot corners not marked by concrete monuments
19 shall be marked as specified under applicable state
 statute.

20 **§155.0430 Easements**

21 **A)** Easements on or along rear or side lot lines shall be
22 provided for utilities, surface drainage, or pedestrian
23 access where necessary and shall be a minimum of seven
24 (7) feet wide on each side of the property lines for a
25 total of 14 feet, or of a size conforming to the
 standards of the City of Fort Wayne whichever is greater.
 Easements shall connect with easements in adjoining
 developments in the shortest direct line consistent with
 good engineering practice.

26 **B)** All utility easements as dedicated on the face of the
27 plat shall be kept free of all permanent structures and
28 the removal of any obstruction by a utility company shall
29 in no way obligate the utility company in damages or to
 restore the obstruction to its original form.

30 **§155.0440 Public Places**

31 **A)** In subdividing property, consideration shall be given
32 to providing suitable areas to be set aside by the
 developer for schools, fire stations, libraries, and

1 other common areas for public use.

2 B) If the subdivider is required to set aside land for
3 any of these purposes, such set aside shall be for a
4 period of twenty-four months, unless otherwise
5 stipulated. The agency requesting the set aside may
6 acquire an option to purchase such ground for such
7 community facility. If the agency does not acquire an
8 option to purchase, or institute condemnation proceedings
9 within that time period, the reservation shall become
10 null and void.

11 **§155.0450 Recreational Areas**

12 A) All subdivisions shall require the creation of
13 recreational space within the platted subdivision.
14 Recreational space shall be of suitable size, dimension,
15 topography and general character and shall have adequate
16 road access, for the general purposes envisioned. The
17 acreage shall be determined by the Plan Commission from
18 the following table, which has been prepared on the basis
19 of providing three (3) acres of recreational area for
20 every 100 dwelling units, and may be waived if the total
21 required recreational space is less than 10,000 square
22 feet. Said ratio shall be applied to all sections of a
23 subdivision, and to the combination of all sections of a
24 subdivision.

TABLE OF REQUIRED RECREATIONAL SPACE	
If total area of plat divided by number of lots is less than or equal to:	Total land required for recreational space allotment:
15,000 Sq. Ft.	8.0 Percent
25,000 Sq. Ft.	5.0 Percent
35,000 Sq. Ft.	3.5 Percent
40,000 Sq. Ft.	3.0 Percent
50,000 Sq. Ft.	2.5 Percent
80,000 Sq. Ft. or more	1.5 Percent

25 B) Recreation areas shall be located as the Plan
26 Commission or the Plat Committee so directs, and may
27 contain any type of recreational facility approved by the
28 Fort Wayne Department of Parks and Recreation, and may
29 include active or passive recreational facilities.
30 Recreational areas shall be coordinated, whenever
31 possible, with existing or proposed recreational areas.

32 C) Recreational areas as required by this section may be
dedicated to the Fort Wayne Department of Parks and
Recreation, which shall reserve the right to accept or
decline acceptance of the dedication.

D) Recreational area requirements shall be waived if:

- 1) the subdivider has entered an agreement with the
Fort Wayne Department of Parks and Recreation to

1 improve and dedicate lands and facilities within
2 the subdivision, or at an acceptable location not
3 contained within the subdivided land, for a public
park, or;

4 2) the subdivider has made acceptable "in lieu of"
5 payments to the Fort Wayne Department of Parks and
6 Recreation for deposit in an escrow account to be
used only for public park development within the
appropriate subarea of the park service
jurisdiction.

7 E) The provisions of this section are minimum standards.
8 None of the paragraphs above shall be construed as
9 prohibiting a developer from establishing other land for
recreational purposes in addition to the requirements of
this section.

10 **§155.0460 Subdivision Within Floodplain Zones.**

11 A) No subdivision of land shall be allowed by the city
12 within the defined floodway.

13 B) There shall be no subdivision of land within the
14 defined floodway fringe unless the following conditions
are met:

15 1) It is determined by the city after receipt of
16 additional hydrological or grade studies from the
17 subdivider or appropriate federal or state agencies
that the lands to be developed are no longer
subject to being covered by flood water of a 100-
year frequency flood; or:

18 2) The location, grade, and flood-proofing of all
19 proposed utilities which are to be extended into or
20 through any portion of the floodplain to serve the
21 proposed development shall first be approved by the
city, prior to the extension of such utilities into
the floodplain area, and;

22 3) Additional information shall be included with
23 the Primary Plat of the subdivision in compliance
24 with the requirements and policies of Water
Pollution Control Engineering, its assigns or
successor agency:

25 a) All hydrological and grade information
26 which is necessary to determine the frequency
and extent that the subdivision is subject to
inundation by flood water;

27 b) The type and extent of the proposed use or
28 development of the land, along with such
29 information as is necessary to determine the
effect flood waters will have on such
development and use, and the effect that such
development and use may have upon the flood
waters. All such information shall show the
30 location of the proposed use, areas of
habitation and employment if any, included
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1 within the subdivision, size and floor
2 elevations of any structures, the location and
3 elevation of parking areas, and the location,
4 use, and elevation of all open land areas;

5 c) Plans and other required information
6 conforming to the development standards of
7 this ordinance;

8 d) The limits of the 100-year flood plain;

9 e) The amount of fill material brought into
10 the subdivision location, and the location of
11 the borrow area.

12 4) The raising of ground elevation shall be
13 accomplished in such a manner that the general flow
14 and storage of water is not unduly restricted or
15 limited and will not cause flood hazards to other
16 lands or developments, either within the proposed
17 subdivision or otherwise, and that said protection
18 shall be accomplished without creating the need of
19 significant public expenditure for flood control,
20 and;

21 5) Any area within a floodplain from which fill is
22 taken shall be hydrologically designed and
23 maintained to reduce the likelihood of becoming
24 refilled by silt. The subdivider must make
25 arrangements satisfactory to the city binding
26 successors and/or assigns, to regrade or remove
27 such silt as is necessary to return any area to its
28 approved design after flooding has occurred. Any
29 area from which fill is taken within a floodplain
30 shall be of a grade that will continue to permit
31 adequate drainage into the stream or watercourse.
32 If a water area is to be maintained within the
floodplain, consideration shall be given to the
effect the water area may have upon the flooding of
both the land within the floodplain and other lands
outside of the floodplain.

§155.0470 Modification of Requirements.

A) The Plan Commission may vary or modify the
requirements of this ordinance whenever:

1) the tract to be subdivided is of such unusual
size or shape; or

2) the tract is surrounded by such development or
unusual conditions;

that the strict application of the requirements contained
or referenced herein would result in actual difficulties
or substantial hardship or injustice. Any modifications
shall be to allow the subdivider to develop the property
in a reasonable manner while protecting and preserving
the public welfare, interests of the city and surrounding
areas and the general intent and spirit of these
regulations.

1 B) The minimum improvement shall be required unless
2 specifically and individually waived by the Plan
3 Commission or Plat Committee. The Plan Commission shall
4 not approve requests for modification unless it shall
make findings of fact based upon the evidence presented
to it in each specific case that:

5 1) Granting approval will not be detrimental to the
6 public health, safety, or welfare, or injurious to
other properties.

7 2) The conditions upon which the request for
8 modification is based are unique to the property
for which the request is sought, and are not
applicable generally to other properties.

9 3) Because of the particular physical surroundings,
10 shape, or topographical conditions of the specific
11 property involved, a particular hardship to the
12 owner would result, as distinguished from a mere
inconvenience, if the strict letter of these
regulations is carried out.

13 4) Financial hardship does not constitute grounds
14 for modifications.

15 C) The modification shall not in any way vary the
16 regulations of the Zoning Ordinance or the infrastructure
construction standards as adopted by the Board of Public
Works.

17 D) The request for modification shall be submitted in
18 writing by the subdivider at the same time as the primary
19 plat is filed for consideration. The petition shall
state fully the grounds for the application, and all of
the facts relied upon by the petitioner.

20 E) It is not within the jurisdiction of the Board of
21 Zoning Appeals to grant variances to the Subdivision
22 regulations, and all such requests must be properly filed
with the Plan Commission.

23 INFRASTRUCTURE REQUIREMENTS

24 §155.0500 Infrastructure

25 All infrastructure construction, material and dedication
26 shall be the responsibility of the subdivider of the
subdivision.

27 §155.0510 Streets

28 Public streets shall be constructed in accordance with
29 plan, profile and specifications prepared by a
30 professional engineer, or land surveyor, registered in
the State of Indiana, and approved by the city department
having jurisdiction in accordance with the city standards
and specifications for such improvement.

1 **§155.0520 Roadway Design**

2 All streets within a new subdivision shall be paved and
3 include curbs and gutters, providing that the Plan
4 Commission may waive this requirement for industrial
5 subdivisions. All pavement, curbs and gutters shall
6 comply with city specification and standards.

7 **§155.0530 Sidewalks**

8 **A)** Public sidewalks shall be constructed to city
9 standards and specifications on both sides of all streets
10 within the subdivision, and on the side of any street
11 abutting the subdivision, provided that the city shall
12 have the right to waive this requirement in the following
13 cases:

14 1) When the city deems it appropriate to accept a
15 recorded document for the future construction of
16 such sidewalks. Such document shall be in a form
17 acceptable to the city attorney, or;

18 2) In an industrial subdivision, or;

19 3) When all lots within the subdivision are a
20 minimum of one acre or more.

21 **B)** Construction of such public sidewalks shall occur:

22 1) Prior to occupancy of any structure on the lot;
23 or,

24 2) When requested to do so by the City of Fort
25 Wayne; or,

26 3) When sidewalks have been installed on 70% or
27 more of the frontage along any street between two
28 intersections, or an intersection and a cul-de-sac
29 the remainder of the sidewalks shall be installed.

30 **§155.0540 Street Lighting**

31 Public street lighting shall be provided in accordance
32 with the standards and specifications of the City of Fort
33 Wayne.

34 **§155.0550 Traffic Control**

35 Where warranted and required by the City Traffic
36 Engineer, traffic control devices shall be provided in
37 accordance with city standards and specifications.

38 **§155.0560 Street Trees**

39 Sufficient existing shade trees shall be retained or new
40 trees planted to shade streets and sidewalks in
41 accordance with the standards and specifications of the
42 City of Fort Wayne.

1
2 **§155.0570 Water Supply**

3 Complete public water facilities must be provided. The
4 work shall be done in accordance with plans, profiles and
5 specifications prepared by a professional engineer
6 registered in the State of Indiana, and approved by the
7 city department having jurisdiction in accordance with
8 the standards and specifications for such improvement.

9 **§155.0580 Sanitary Sewage Collection**

10 Complete public sewer facilities must be provided. The
11 work shall be done in accordance with plans, profiles and
12 specifications prepared by a professional engineer or
13 land surveyor registered in the State of Indiana, and
14 approved by the city department having jurisdiction in
15 accordance with the standards and specifications for such
16 improvement.

17 **§155.0590 Stormwater Management**

18 A) All platted lands shall meet the minimum requirements
19 of stormwater management and erosion control as
20 established by the Water Pollution Control Engineering
21 Department and/or its successors or assigns.

22 B) Violation of this provision shall be enforced by Water
23 Pollution Control Engineering and/or its successors or
24 assigns.

25 **§155.0600 Recreation Facilities**

26 When recreation facilities are required, they shall be
27 built in accordance with plans approved by the City of
28 Fort Wayne Board of Park Commissioners or their
29 representatives in accordance with their standards.

30 **ADMINISTRATION**

31 **§155.1000 Minor Subdivision**

32 Minor subdivisions shall have frontage on an existing
improved non-arterial street, and shall not require the
creation or extension of any water or sewer facility.
Minor subdivisions may not exceed a total of six (6) lots
including the root parcel or original tract.

§155.1010 Minor Subdivision Submittal Requirements

All applications and submittals for primary subdivision
approval shall be accompanied by the following:

A) A list showing names and mailing addresses of all
contiguous property owners, certified by the applicant as
to its completeness and accuracy.

B) One set of stamped, addressed envelopes for all
contiguous property owners.

C) A completed application form signed by the property

owner of record.

D) The required application fee.

E) A minimum of thirty copies of the proposed plat containing:

1) Name of the subdivision, and accurate legal description.

2) Location map, north point and scale used.

3) Boundaries of the tract with accurate dimensions and bearings, as determined by an accurate survey in the field which has been balanced and closed, as well as physically located by monument.

4) Location and description of all monuments with references by distance and bearings to 1/4 section corners, and location and type of monuments set at all corners.

5) Length of lot lines and area of lots, angles at all points of deflection of all continuous lines, radii, arcs, and complete curve data for all horizontal curves.

6) Lot width indicated at the building line as defined by the Zoning Ordinance.

7) All lot numbers or letters, and assigned addresses.

8) Width of public rights-of-way.

9) Name of the developer and the owner, along with addresses.

10) Name of land surveyor, or engineer, along with addresses.

11) All easements proposed or existing.

12) Any park or recreational areas.

13) Location of all property that is to be dedicated for public use, and all property that may be reserved for the common use of property owners in the subdivision.

14) Certification by a registered land surveyor per Exhibit B.

15) Signature lines for approval by the Plat Committee.

16) Signature lines for approval by the Board of Public Works.

17) Dedication documents as per Exhibit A must appear on the plat face.

1 18) Specific lots that have been assigned flood
2 protection grades should be so indicated on the
3 plat.

4 F) Support document or documents that address the
5 following:

6 1) Engineering estimates for any required capital
7 improvements.

8 2) Contours shown at vertical intervals of two (2)
9 feet if the general slope of the site is less than
10 two (2) percent, and at vertical intervals of five
11 (5) feet if the general slope is greater than two
12 (2) percent, as taken from available county, state,
13 or federal maps.

14 3) Floodway and floodway fringe contour lines from
15 FEMA maps, or statements that all areas are outside
16 of the flood plain.

17 4) Existing water and sewer mains, and proposed
18 street lighting as necessary.

19 5) Any existing buildings, their dimensions and
20 placement on the lots.

21 6) All proposed and existing public sidewalks.

22 7) The general location of all proposed and
23 existing trees in or adjacent to street rights-of-
24 way.

25 **§155.1020 Subsequent Procedural Requirements**

26 A) On or before the posted filing deadlines the
27 petitioner shall file the submittal requirements with the
28 offices of Community & Economic Development or successor
29 agency.

30 B) The subdivider or applicant shall send notice to
31 interested parties, as defined above, within two weeks of
32 the submittal date, and a minimum of ten (10) days prior
to the public hearing. Notice forms will be available in
the office of Community & Economic Development.

C) Within two weeks of the submittal date, subdivider or
applicant must submit an affidavit verifying mailing of
the required notice.

D) The submittal for minor plat approval shall be
reviewed by the Development Plan Committee for comments,
requirements and recommendations. The comments of that
committee shall be coordinated by the Plan Commission
staff, along with an analysis and recommendation, and
shall be forwarded to the Plat Committee.

1 **§155.1030 Hearing Before The Plat Committee**

2 **A)** The Plat Committee shall review the proposed plat at
3 a public hearing and take one of the following actions:

4 1) If after the hearing, the Plat Committee
5 determines that the application and plat comply
6 with the requirements and standards of the
7 Subdivision Control Ordinance, it shall cause
written findings to be made, and notification sent
to all interested parties, as defined in this
ordinance, that primary approval has been granted.

8 2) If after the hearing, the Plat Committee
9 determines that the application and plat comply
10 with the requirements and standards of the
11 Subdivision Control Ordinance only upon certain
12 conditions being met, it shall cause written
findings to be made, and notification sent to all
interested parties, as defined in this ordinance,
stating the conditions that must be satisfied prior
to primary approval being granted.

13 3) If after the hearing, the Plat Committee
14 determines that the application and plat does not
15 comply with the requirements and standards of the
16 Subdivision Control Ordinance, and that it is not
susceptible to modification or amendment, it shall
cause written findings to be made, and notification
sent to all interested parties, as defined in this
ordinance, that primary approval has been denied.

17 **B)** Any approval or approval with conditions granted by
18 the Plat Committee shall be valid for a period of one
19 year from the date of such approval, or approval with
20 conditions. If a secondary minor plat has not been
approved within that time, the minor plat shall be null
and void.

21 **C)** Neither the Plat Committee, the Plan Commission or any
22 of its staff (or appropriate agencies) may impose any
23 additional conditions or terms after primary approval or
primary approval with conditions is granted.

24 **§155.1040 Secondary Approval Of A Minor Plat**

25 **A)** If no appeal has been filed, and all conditions placed
26 upon the primary minor plat have been satisfied, the Plat
Committee may grant a Secondary Approval.

27 **B)** If an appeal has been filed, the Plat Committee may
28 not take further action regarding the minor subdivision
29 until such appeal has been decided by the Plan
Commission. Subsequent Plat Committee action, if any,
shall be in keeping with the decision of the Plan
Commission.

30 **C)** No notice or public hearing is required for a
31 secondary approval of a minor plat.

32 **D)** When the Board has accepted the infrastructure

1 improvements, or upon receipt of sufficient bonding or
2 surety, the Board may approve the plat and enter it into
3 its records. The plat shall be returned to the Plan
4 Commission staff, signed by the Plat Committee, and be
5 recorded by the developer.

6 **E)** The Plat Committee shall acknowledge its approval by
7 affixing appropriate signatures to the plat face after
8 all conditions, if any, have been satisfied, and the
9 Board of Works has indicated their approval.

10 **F)** The secondary plat must be recorded within one year
11 from the date of approval or approval with conditions of
12 the primary submittal. Failure to do so shall void the
13 plat. Plan Commission staff shall notify the Board of
14 Public Works, if necessary, upon expiration of the one
15 year time limit, and shall notify the plat applicant that
16 the plat has been voided.

17 **G)** Bonding shall be in effect for the amount of time that
18 is required to install and have accepted all required
19 capital improvements. Portions of the bonded amount may
20 be released by the Board of Public Works pending
21 acceptance of the improvement by the Board.

22 **§155.1100 Major Subdivision**

23 Lots in a Major subdivision, located along an arterial
24 street, shall not directly access the arterial street.

25 **§155.1110 Primary Major Subdivision Submittal 26 Requirements**

27 All applications and submittals for primary subdivision
28 approval shall be accompanied by the following:

29 **A)** A list showing names and mailing addresses of all
30 property owners within three hundred (300) feet of the
31 proposed subdivision, and the registered neighborhood
32 associations, if applicable, certified by the applicant
as to its completeness and accuracy.

B) One set of stamped, addressed envelopes for property
owners within three hundred (300) feet of the proposed
subdivision, and the registered neighborhood associations
for the subject property, if applicable.

C) A completed application form signed by the property
owner of record.

D) The required application fee.

E) A minimum of thirty copies of the proposed plat
containing:

1) Name of the subdivision, and legal description.

2) Location map of the subdivision, north point and
scale used.

3) Boundaries of the tract with accurate dimensions

1 and bearings, as determined by an accurate survey
2 in the field which has been balanced and closed, as
3 well as physically located by monument.

4 4) Location and description of all monuments with
5 references by distance and bearings to 1/4 section
6 corners, and location and type of monument at all
7 corners.

8 5) Length of lot lines and area of lots, angles at
9 all points of deflection of all continuous lines,
10 radii, arcs, and complete curve data for all
11 horizontal curves.

12 6) Lot width shown at the building line as defined
13 by the Zoning Ordinance.

14 7) All lot numbers or letters and all road and
15 streets with proposed names.

16 8) Public right-of-way widths, maximum grades,
17 approximate curve and coordination of subdivision
18 public ways with current and planned public ways
19 within or adjacent to the subdivision.

20 9) Name of developer and owner, along with
21 addresses.

22 10) Name of land surveyor or engineer along with
23 addresses.

24 11) All easements proposed or existing.

25 12) Any park or recreational area if required.

26 13) Location of all property that is to be
27 dedicated for public use, and all property that may
28 be reserved for the common use of property owners
29 in the subdivision.

30 14) Specific lots that have been assigned flood
31 protection grades.

32 F) Support document or documents that address the
following:

1) Contours shown at vertical intervals of two (2)
feet if the general slope of the site is less than
two (2) percent, and at vertical intervals of five
(5) feet if the general slope is greater than two
(2) percent, as taken from available county, state,
or federal maps.

2) Floodway and floodway fringe contour lines from
FEMA maps, or statements that all areas are outside
of the flood plain.

3) Proposed extension of water, sewer, street
lighting and other municipal services, or existing
services if extensions are not required.

1 4) Any existing buildings, their dimensions and
2 placement on the lots.

3 5) All proposed and existing public sidewalks.

4 6) The general location of all proposed and
5 existing trees in or adjacent to street rights-of-
6 way.

7 G) Traffic Engineering may require the completion of a
8 traffic study prior to granting approval.

9 **§155.1120 Subsequent Procedural Requirements**

10 C) On or before the posted filing deadlines for the Plan
11 Commission or Plat Committee agenda the petitioner shall
12 file the submittal requirements with the offices of
13 Community & Economic Development (or any successor
14 agency).

15 B) The subdivider or applicant shall send notice to
16 interested parties, as defined above, within two weeks of
17 the submittal date, and a minimum of ten (10) days prior
18 to the public hearing. Notice forms will be available in
19 the office of Community & Economic Development.

20 C) Within two weeks of the submittal date, subdivider or
21 applicant must submit an affidavit verifying mailing of
22 the required notice.

23 D) The submittal for primary plat approval shall be
24 reviewed by the Development Plan Committee and/or other
25 appropriate agencies for comments, recommendations and
26 approvals. The comments of that committee shall be
27 coordinated by the Plan Commission staff, along with an
28 analysis and recommendation, and shall be forwarded to
29 either the Plat Committee or the Plan Commission for
30 Public Hearing.

31 **§155.1130 Hearing Before The Plan Commission Or Plat
32 Committee**

 A) After public hearing, the following action may be
taken:

 1) After the Public Hearing, if it is determined
that the application and plat comply with the
requirements and standards of the Subdivision
Control Ordinance, written findings shall be made,
and notification sent to all interested parties, as
defined in this ordinance, that primary approval
has been granted.

 2) After the Public Hearing, if it is determined
that the application and plat comply with the
requirements and standards of the Subdivision
Control Ordinance only upon certain conditions
being met, written findings shall be made, and
notification sent to all interested parties, as
defined in this ordinance, stating the conditions
that must be satisfied prior to primary approval

1 being granted.

2 3) After the Public Hearing, if it is determined
3 that the application and plat does not comply with
4 the requirements and standards of the Subdivision
5 Control Ordinance, and that it is not susceptible
6 to modification or amendment, written findings
shall be made, and notification sent to all
interested parties, as defined in this ordinance,
that primary approval has been denied.

7 B) Neither the Plan Commission, Plat Committee, or any of
8 its staff (or reviewing departments) may impose any
additional conditions or terms after primary approval or
primary approval with conditions is granted.

9 C) Every decision of the Plat Committee shall be subject
10 to review by the Plan Commission as provided in Section
155.2020 of this ordinance.

11 D) The final decision of the Plan Commission may be
12 reviewed as provided in Section 36-7-4-1016 of Indiana
Code and by Section 155.2030 of this ordinance.

13 **§155.1140 Secondary Approval Of A Major Plat**

14 A) Within one year of the time of Primary Approval of a
15 major plat, or Approval with conditions, the secondary
16 plat shall be submitted. Failure to submit a secondary
17 plat for all or part of the primary plat shall render the
entire plat void. If only a portion of the primary plat
is submitted for secondary approval, the remaining
portion must be submitted within one year of the date of
original submission for secondary approval or the
remaining portion of the plat shall be rendered void.

19 B) Submittals shall be made in compliance with the posted
20 filing deadlines, and shall be reviewed initially by the
Development Plan Committee. In addition to the
21 requirements for primary approval, the submittal must
contain the following:

22 1) The plat must contain:

23 a) Assigned addresses.

24 b) Dedication documents as per exhibit "A".

25 c) Certification by a land surveyor licensed
26 in Indiana, as per Exhibit B.

27 d) Signature lines for approval by the Plat
Committee.

28 e) Signature lines for approval by the Board
29 of Public Works.

30 2) In addition to the primary major plat
31 requirements, a secondary major plat submittal must
include additional support documents that address
32 the following:

1 a) Any and all other items required as a
2 condition of approval on the primary plat
3 submittal.

4 b) Secondary Major Plat application form and
5 required fee.

6 c) Engineering estimates for all capital
7 improvements.

8 E) The Plan Commission staff shall coordinate the
9 comments and requirements of the reviewing departments.
10 When all reviewing departments have been satisfied by the
11 secondary plat and/or accompanying documents, and the
12 Board has accepted the infrastructure improvements, the
13 Plan Commission staff shall schedule the plat for
14 approval. A secondary major plat containing any
15 unsatisfied conditions shall not be scheduled for
16 approval.

17 F) When the Board has accepted the infrastructure
18 improvements, or upon receipt of sufficient bonding or
19 surety, the Board may sign the plat and enter it into
20 their records. The plat shall be returned to the Plan
21 Commission staff.

22 G) The Plat Committee shall review and approve or review
23 and deny all secondary major plats. No approval may be
24 granted until at least thirty (30) days after written
25 notice of the primary plat approval, or approval with
26 conditions.

27 H) The Plat Committee shall acknowledge its approval by
28 affixing appropriate signatures to the plat face. The
29 plat shall then be recorded by the developer.

30 I) The secondary plat must be recorded within one year
31 from the date of submittal. Failure to do so shall void
32 the plat. Plan Commission staff shall notify the Board
of Public Works, if necessary, upon expiration of the one
year time limit, and shall notify the engineer, surveyor,
or plat applicant that the plat has been voided.

J) Bonding shall be in effect for the amount of time that
is required to install and have accepted all required
capital improvements. Portions of the bonded amount may
be released by the Board of Public Works upon acceptance
of the improvement by the Board.

§155.1150 Engineering Estimates And Bonding

A) The submitted engineering estimates shall be reviewed
by the applicable city department having jurisdiction.
Where the city's estimate and the submitted engineering
estimate differ, the higher of the two shall be used.

B) The bond or surety agreement must be in a form and
amount acceptable to the Board of Public Works, and must
be accepted prior to Board action on the plat.

1 C) The Board may attach the bond or surety if the
2 subdivider fails to construct or install the necessary
3 capital improvements within the required time, or if such
4 construction does not meet the applicable standards and
5 specifications, or if such improvements are not
6 acceptable to the Board. All attachments may only be used
7 for the purposes which the original bond was intended.

8 D) The Board shall hold all bonds or surety until such
9 time that the improvement is accepted. The Board may
10 establish appropriate procedures as they see necessary to
11 control and monitor the bonding requirements and
12 construction of capital improvements under the
13 Subdivision Control Ordinance.

14 §155.2000 Secondary Plat Adjustments

15 A) After a secondary plat has been approved, the Plat
16 Committee or its designated representative is authorized
17 to approve amendments to the plat if:

18 1) A request for amendment is filed, accompanied by
19 the signatures of all owners of property in the
20 plat and a survey if appropriate; and

21 2) There is no increase in the number of lots; and

22 3) No public land will be accepted as a result of
23 the amendment, except as may be incidental to the
24 adjustment of lot lines and/or right-of-way lines;
25 and,

26 4) The amendment is consistent with the purposes
27 and requirements of this ordinance; and,

28 5) The appropriate filing fee is paid.

29 §155.2010 Survey Errors or Scrivener Errors

30 In the event that a survey error is found at any time
31 after the recording of a secondary subdivision plat, the
32 Director of Planning must be notified of such error in
writing. Thereafter, the developer, or his/her
successor, shall cause the error or omission to be
corrected. Improvement Location Permits or any other
building permits shall be withheld for any lot within the
subdivision until such error or omission is corrected.

The developer shall resubmit the corrected plat for re-
recording. This submittal shall be accompanied by a
written explanation of the error or omission, the action
taken to make corrections, and the appropriate
review/filing fee.

All such plats submitted shall bear the title "A
corrected secondary plat of (subdivision name)."

31 §155.2020 Appeals Of Decisions Of The Plat Committee

32 A) If an appeal of the Plat Committee's action is filed
within ten (10) calendar days of notice of the

1 disposition being mailed, the submittal shall be placed
2 on the next available scheduled public hearing of the
3 Plan Commission that will allow for notice to interested
4 parties.

5 B) Appeals must be accompanied by a fee as paid for the
6 original application.

7 C) In addition, any party filing an appeal must provide
8 the following:

9 1) A list showing names and mailing addresses of
10 all interested parties as defined in §155.0300.
11 This list must be certified by the appellant as to
12 its completeness and accuracy.

13 2) The appellant shall send notice to interested
14 parties, as defined in this ordinance, within two
15 weeks of the submittal of the appeal, and a minimum
16 of ten (10) days prior to the scheduled hearing.
17 Notice forms will be available in the office of
18 Community & Economic Development. The appellant
19 must submit an affidavit verifying mailing of the
20 required notice.

21 3) One set of stamped, addressed envelopes for all
22 contiguous property owners.

23 D) The Plan Commission may approve, disapprove, or
24 conditionally approve the plat.

25 E) The approval or disapproval of the appeal is a final
26 decision of the Plan Commission that may be reviewed as
27 provided in Section 36-7-4-1016 of Indiana Code and by
28 Section 155.1050 of this ordinance.

29 F) If an appeal has not been decided within ninety days
30 of the Plat Committee primary decision, the appeal
31 application shall be deemed denied.

32 §155.2030 Appeals Of Decision Of The Plan Commission

Every decision of the Plan Commission shall be subject to
review by Writ of Certiorari.

EXHIBIT "A" (DEDICATION)

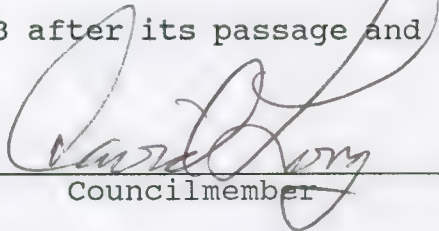
WE,the undersigned, owners by
virtue of a certain deed shown in Document
Number....., in the office of the Recorder of Allen
County, Indiana, of the real estate shown and described
herein, do hereby lay off, plat, dedicate and subdivide,
said real estate into lots, streets and easements in
accordance with the information shown on the plat.
Further, we hereby subject and impress all of said land
in said addition with the limitations and easements
attached hereto and made a part thereof by reference.
This Subdivision shall be known and designated as
....., an addition to the City of Fort
Wayne, Indiana.

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EXHIBIT "B" (CERTIFICATE OF SURVEY)

I,, hereby certify that I am a land surveyor licensed in compliance with the laws of the State of Indiana; and that this plat correctly represents a survey completed by me or under my direction on; that all the markers shown thereon actually exist or will be set; and that their location, size, type and material are accurately shown.

SECTION 2. That this Ordinance shall be in full force and effect on Octobr 1, 1993 after its passage and approval by the Mayor.



Councilmember

APPROVED AS TO FORM AND LEGALITY:


J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Parine,
and duly adopted, read the second time by title and referred to the
Committee on Regulations (and the City Plan Commission
for recommendation) and Public Hearing to be held after due legal notice, at
the Common Council Council Conference Room 128, City County Building, Fort
Wayne, Indiana, on _____, 19____, the _____ day of
_____, M., E.S.T.

DATED: 3-9-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Nadine E. Kelly Deputy Clerk

Read the third time in full and on motion by Parine,
and duly adopted, placed on its passage. PASSED Lost
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>6</u>			<u>3</u>
BRADBURY				<u>✓</u>
EDMONDS	<u>✓</u>			
GiaQUINTA	<u>✓</u>			
HENRY				<u>✓</u>
LONG				<u>✓</u>
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 5-4-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 9-14-93
on the 4th day of May, 19 93

ATTEST:

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)
Mark C. Giacchino
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 5th day of May, 19 93,
at the hour of 11:30 o'clock PM, M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 6th day of May,
19 93, at the hour of 10:30 o'clock PM, M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

FACT SHEET

G-93-03-11

BILL NUMBER

**Division of Community
Development & Planning****BRIEF TITLE****APPROVAL DEADLINE****REASON**

Subdivision Control Ordinance

DETAILS**Specific Location and/or Address**

N/A

Reason for Project

A revised Subdivision Control Ordinance is being proposed that more clearly addresses the needs of the community, that redefines what constitutes a subdivision, and that provides for infrastructure improvements and land set-asides in conjunction with the subdivision of land within the corporate limits. The revised ordinance represents improvements in the submittal and approval process, while maintaining similar penalty language.

Discussion (Including relationship to other Council actions)

15 March 1993 - Public Hearing

(See Attached Minutes of Meeting)

22 March 1993 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did not vote. Motion carried.

POSITIONS**RECOMMENDATIONS****Sponsor**

City Plan Commission

Area Affected

City Wide

Other Areas

**Applicants/
Proponents**

Applicant(s)
Land Use Management -
Community & Economic Develop-
City Department ment

Other

Opponents

Groups or Individuals
Jack Powell, 8721 Breakwater
Andy Kurtz, 909 Old Farm Cr

Basis of Opposition

-feels the city & county need one ordinance to work from & that they should combine the ordinances

**Staff
Recommendation**

☒ For ☐ Against

Reason Against

**Board or
Commission
Recommendation**

By

☒ For ☐ Against
☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

**CITY COUNCIL
ACTIONS
(For Council
use only)**

☐ Pass ☐ Other
☐ Pass (as amended) ☐ Hold
☐ Council Sub. ☐ Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

Date 11 February 1993

Projected Completion or Occupancy

Date 24 March 1993

Fact Sheet Prepared by

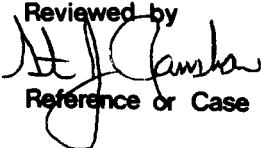
Date 24 March 1993

Patricia Biancaniello

Date

Reviewed by

25 MARCH 1993



Reference or Case Number

a. Bill No. G-93-03-11
Subdivision Control Ordinance

Steve Ranshaw, Senior Planner with Community & Economic Development appeared before the Commission. He stated that the ordinance before them was the culmination of over two years of work. He stated that over two years ago the staff began work on amendments to and actually re-writing of the Subdivision Control Ordinance for the City of Fort Wayne. He stated that the initial work was done within approximately the first 6 to 9 months and then the work was halted for approximately one year. He explained that the reason was that the city was going to wait for the county, who was also interested in working on their Subdivision Control Ordinance. He stated that the city was waiting so that both of the projects could be done at the same time so that there would be consistencies between the two. After waiting for approximately one year the city decided to pick the project back up again. Because of the merits of the new draft of the ordinance, they wanted to move forward with the ordinance. There are some items in this that they feel are important enough that they should move forward. He stated that they have given a draft of the ordinance to the County.

Mr. Ranshaw stated that he would be brief and just hit the high points of the ordinance. He stated that there was also a representative from the Park Department to answer any questions the Commission may have concerning the recreational space requirements or the in lieu of payment. He stated that there is also a representative from the Ordinance Review Committee, Jack Powell. He stated that the new ordinance creates two different types of subdivisions a major and a minor subdivision. A minor subdivision is for those subdivisions of land that are from between 3 and 6 lots. He stated the minor subdivisions also have to have existing city infrastructure and gain access from an existing improved city street. He stated that what they have done in order to expedite that procedure is they have also created a Plat Committee that can hear those very simple cases, which will remove those from the agendas of the Plan Commission. The second type of subdivision is a major subdivision, that is obviously for all those greater than 6 lots. Those would still come before the Plan Commission as has been done in the past. He stated however that the secondary approval, which is actually just a technical review to make sure that all the conditions are met, could be done through the Plat Committee. He stated that another item is the fact that Planned Districts are excluded from the requirements of the Subdivision Control Ordinance. He stated that they have tried to lay the ground work for unique development, to try to give developers the flexibility to preserve natural features, to condense and allow for cluster development or any other kind of unique development that would not be able to adhere to the strict minimum requirements of the Subdivision Control Ordinance. He stated that they could come before the Commission as a development plan as opposed to a subdivision and allow more flexibility. He stated another item is the creation of recreational space. The ordinance has three alternatives for a developer. The developer can provide for land

within his project, which can be dedicated to the city Park Department or can remain private. The second alternative is that the developer can provide the land on a site away from where the project is being developed, if the Park Department deems that as being an appropriate site for future park development. The third alternative is the developer can provide the Park Department with an in lieu of payment. He stated that instead of setting aside the land or dedicating the land to the Park Department they would pay to the Park Department, in order to improve an existing park in that immediate area. He stated the goal here is to make sure that the recreational needs of the community are met. He stated the final item he would talk about is the improved notice requirement. He stated that they are not just dropping the ball in the lap of the development community. He stated that they will work very closely with the development community in order to provide the notice requirements. He stated that what they have done in this proposed text, is that they have put the burden of sending notice on the developer. The developer would need to give the staff of C&ED a list of all of the interested parties for the proposed subdivision. The developer would then have to send a form that was prepared in the city office to each of these individuals and then provide an affidavit to the staff proving that the notices were sent out and that they were sent out earlier enough to meet the statutory requirements. He stated that the proposed ordinance is not proposed to be implemented until October 1, 1993. He stated they want the deferred implementation date because they need time to have the Plan Commission form the Plat Committee and also form all of the rules, regulations, bylaws and guidelines for that Plat Committee. He stated that there are also a number of new forms that need to be created. He stated that it will also allow the Park Department time to finish their work on the requirements for the in lieu of payment. He stated that the Park Department has taken the responsibility of coming up with all of the requirements for the in lieu of payment. He stated that they are currently working on that requirement and in conversations with Bob Arnold (Director of the Park Department) he assures them that October 1, 1993 is a reasonable date, and that they will have the requirements in place at that time.

Mel Smith questioned when was the last time the Subdivision Control Ordinance was updated.

Wayne O'Brien stated that the last major update would have been 1978. He stated that there was a minor update in the 80's that dealt with some changes to state law dealing with what a professional engineer could do as opposed to a licensed land surveyor.

John Shoaff stated that when land is dedicated to the Park Department and it becomes part of the Park system, there is nothing required for paying for maintenance. He stated that one would assume that there will be property taxes from the new development which will cover its share of the maintenance for the land. He stated that it will be important that those new maintenance

requirements be reflected in the succeeding park budgets.

Mr. Ranshaw stated that the Park Department will decide whether they will accept or not accept the land as a city park.

Jack Powell, 8721 Breakwater Dr, representing the Westbridge Company which develops subdivisions in the city and county. He stated that he was given a copy of the proposed ordinance and he had a number of items that he has concerns about. He stated that he met with Mr. Ranshaw and generally speaking they came to an agreement on those changes. He stated that the greatest frustration with this whole thing is that there is no reason in the world why the City Plan Commission and the County Plan Commission has two separate ordinances. He stated that we have two separate groups doing the same thing and that does not make any sense nor is it efficient. He stated that development standards in the city are no different than development standards in the county. He stated that from a developer's standpoint they would love to have one ordinance. One document that would be appropriate for both jurisdictions. He stated that he did not object to the open space requirement in the new ordinance. He stated that he felt that the alternatives on how to maintain the open space is appropriate. He stated that they have an industry standard of 750 sq ft of open space per lot and there are some upper and lower limits on that. He stated that roughly 80% of all new dwelling units are built outside of the city limits. He stated that we are developing a new standard for open space with this ordinance. Why? He stated that Mr. Ranshaw has done some research and determined that in other communities we had a different standard. He stated that to put them in the middle of what other communities are doing is appropriate. He stated that he would suggest in the name of simplicity that they should look hard and fast as to why they are not adopting what is already accepted as the community standard here. He stated that he wanted to know why the city could not adopt the same standard as the county has adopted in the past. He stated that the ordinance is also proposing a street tree requirement. He stated that he does not object to the requirement. He stated that if the trees go in after the homes are built they will live. He stated however if the developer is required to put them in prior to the homes being completed it is likely they would not survive. He said they are hoping to be able to work with the Park Department on the tree requirement. He stated that he felt the notification provisions were troublesome. He felt that the present procedure works well. He stated that it is a similar procedure the way the county is doing. He stated that if you get a lot of developer's coming in trying to generate lists and do their own mailings, it is going to far more efficient for the staff to do it than to have to deal with double checking on lot of different individuals who do not come before the Commission very often. He stated that he encouraged the Commission to choose the most efficient path, which he believed was to allow the C&ED staff to do the notification.

Andy Kurtz, 909 Old Farm Circle, stated that he was presently

involved in several subdivision developments both in and out of the city. He stated that he wanted to back up what Mr. Powell said. He stated that it is rather confusing to have to different ordinances. He stated that when a subdivision is annexed into the city that has been started in the county it is very confusing. He stated that he was also interested in what the timetable for the new ordinance, since he is filing a subdivision on this Thursday.

Steve Ranshaw stated that he would like to address a couple of the comments. He stated that he is all for a single ordinance and they have been in contact with the County Planning Department and they are working with them to make sure, when it is possible, to be as consistent as they can. He stated that they are proposing with this ordinance a new and better procedure. He stated that he would not want to put in some things from the County's ordinance just for the sake of consistency. He stated that he felt they appear to be more on the leading edge, out in front with the new ordinance. He stated that maybe the County would be able to follow along and see some of the items that they have and feel that they are appropriate. He stated that there is a chart in the new ordinance that explains how much recreational space is going to be required. He stated that in the county right now, regardless of lot size, you have to set aside 750 sq ft for recreational space. He stated that with the table in the new ordinance the sliding scale presents, what they believe, is a more equitable situation, where you actually relate the amount of recreational space to the size of the lot. He stated that more recreational space is required when you have smaller lots, less when you have larger lots, by percentage. He stated that they feel this is a more equitable situation than what the county requires developers now. He stated as far as street trees, there is one statement in the new ordinance that basically says that street trees shall satisfy the requirements for the standards and specifications for the city of Fort Wayne. He stated that as of right now there are no standards and specifications for the city of Fort Wayne that address street trees specifically. He stated that what they are looking at doing is creating a standard. He stated that there will be hearings and input from the development community to create that standard.

He stated that he could understand the concern of the development community, because we have been providing a service to the community by taking care of the notice requirement for the developers. He stated that they have had in the past a number of complaints from people not receiving notice. He stated that they want to improve the notice that is going out. He stated that the mailing of notices for the staff costs a lot of time, effort and money. He stated that we are in a situation now, as most communities are, where staffs are needing to do more with less. He stated that what they are trying to do is improve the notice requirement without increasing the burden of work or cost to the city. He stated that they understand that it will be a time constraint for the developer. He stated that it is more appropriate for the developer.

John Shoaff questioned when the staff would have the street tree requirements.

Mr. Ranshaw stated that they are not set yet, but they are being worked on. He stated that they are working on them and they should probably, be on line by the October 1, 1993 implementation date.

There was no one else present who spoke in favor of or in opposition to the proposed

#533
DRIG

ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Subdivision Control Ordinance

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE A revised Subdivision Control Ordinance is being proposed that more clearly addresses the needs of the community, that redefines what constitutes a subdivision, and that provides for infrastructure improvements and land set-asides in conjunction with the subdivision of land within the corporate limits. The revised ordinance represents improvements in the submittal and approval process, while maintaining similar penalty language.

EFFECT OF PASSAGE This ordinance represents a substantial improvement that secures the orderly subdivision and development of land in the City of Fort Wayne.

G-93-03-11

EFFECT OF NON-PASSAGE The current, out-dated ordinance, will remain in effect. This will not provide for the most effective or efficient subdivision of land within the city limits.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE) _____

BILL NO. G-93-03-11

(Holt 7-13)
(Jacks)
4-257

REPORT OF THE COMMITTEE ON
REGULATIONS

DAVID C. LONG & REBECCA J. RAVINE - CO-CHAIRPERSONS
LUNSEY, SCHMIDT

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Chapter 155
of the Municipal Code of the City of Fort Wayne, Indiana

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
*(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

(Signature: David C. Long)
(Signature: Rebecca J. Ravine)
(Signature: Lunsey)
(Signature: Schmidt)

DATED: 5-4-93.

Sandra E. Kennedy
City Clerk